

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.389 OF 2006
 IN
 APPEAL FROM ORDER NO.299 OF 2006

Abdul Razak Habib Ashrafi. ..Petitioner.

V/s.

Royal Builders & Ors. ..Respondents.

Mr.R.S.Tripathi for petitioner.

CORAM: A.M.KHANWILKAR, J

DATE : FEBRUARY 12, 2007.

P.C. :

1. The grievance in this petition is that the respondents, inspite of assurance given before the Court that they shall not part with the possession or create third party right in respect of new Shop No.2, have since disposed of the said shop in favour of the third party. The Counsel for the petitioner however, fairly accepts that the appeal preferred by the respondents/contemnors being A.O.No.299 of 2006 has been admitted by this Court on December 5, 2006 and interim relief of stay of operation of the trial Court's order has been granted in favour of the respondents. This relief undoubtedly would permit the respondents to deal with the shop No.2. Merely because the petitioner relies on some photographs to

show that the third party is in possession of the said shop No.2, cannot be the basis to assume that such transfer was effected prior to 5th December, 2006. For want of sufficient material to hold otherwise, it is not possible to proceed with the present action against the respondents. Hence dismissed.

2. It is made clear that all questions on merit between the parties will have to be decided by the appropriate Court as and when occasion arises in accordance with the law.